

FILED

**United States Court of Appeals
Tenth Circuit**

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

July 14, 2015

**Elisabeth A. Shumaker
Clerk of Court**

LITTLE SISTERS OF THE POOR HOME
FOR THE AGED, DENVER,
COLORADO, a Colorado non-profit
corporation; LITTLE SISTERS OF THE
POOR, BALTIMORE, INC., a Maryland
non-profit corporation, by themselves and
on behalf of all others similarly situated;
CHRISTIAN BROTHERS SERVICES, a
New Mexico non-profit corporation;
CHRISTIAN BROTHERS EMPLOYEE
BENEFIT TRUST,

Plaintiffs - Appellants,

v.

SYLVIA MATHEWS BURWELL,
Secretary of the United States Department
of Health and Human Services; UNITED
STATES DEPARTMENT OF HEALTH &
HUMAN SERVICES; THOMAS E.
PEREZ, Secretary of the United States
Department of Labor; UNITED STATES
DEPARTMENT OF LABOR; JACOB J.
LEW, Secretary of the United States
Department of the Treasury; UNITED
STATES DEPARTMENT OF THE
TREASURY,

Defendants - Appellees.

SOUTHERN NAZARENE UNIVERSITY;
OKLAHOMA WESLEYAN
UNIVERSITY; OKLAHOMA BAPTIST
UNIVERSITY; MID-AMERICA
CHRISTIAN UNIVERSITY; REACHING
SOULS INTERNATIONAL, INC., an
Oklahoma not for profit corporation;

No. 13-1540
(D.C. No. 1:13-CV-02611-WJM-BNB)
(D. Colo.)

TRUETT-MCCONNELL COLLEGE,
INC., a Georgia nonprofit corporation, by
themselves and on behalf of all others
similarly situated; GUIDESTONE
FINANCIAL RESOURCES OF THE
SOUTHERN BAPTIST CONVENTION, a
Texas nonprofit corporation,

Plaintiffs - Appellees.

v.

Nos. 14-6026 & 14-6028
(D.C. Nos. 5:13-CV-01092-D)

SYLVIA MATHEWS BURWELL,
Secretary of the United States Department
of Health and Human Services; UNITED
STATES DEPARTMENT OF HEALTH &
HUMAN SERVICES; THOMAS E.
PEREZ, Secretary of the United States
Department of Labor; UNITED STATES
DEPARTMENT OF LABOR; JACOB J.
LEW, Secretary of the United States
Department of the Treasury; UNITED
STATES DEPARTMENT OF THE
TREASURY,

Defendants - Appellants.

67 CATHOLIC THEOLOGIANS AND
ETHICISTS; ALABAMA PHYSICIANS
FOR LIFE; AMERICAN ASSOCIATION
OF PRO-LIFE OBSTETRICIANS &
GYNECOLOGISTS; AMERICAN
ASSOCIATION OF UNIVERSITY
WOMEN; AMERICAN BIBLE
SOCIETY; AMERICAN CENTER FOR
LAW AND JUSTICE; AMERICAN
CIVIL LIBERTIES UNION OF
COLORADO; AMERICAN CIVIL
LIBERTIES UNION OF OKLAHOMA;
AMERICAN CIVIL LIBERTIES UNION;
AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL
EMPLOYEES (AFSCME); AMERICAN

PUBLIC HEALTH ASSOCIATION;
AMERICANS UNITED FOR
SEPARATION OF CHURCH AND
STATE; ASIAN & PACIFIC ISLANDER
AMERICAN HEALTH FORUM; ASIAN
AMERICANS ADVANCING JUSTICE |
AAJC; ASIAN AMERICANS
ADVANCING JUSTICE | LOS
ANGELES; ASSOCIATION OF
AMERICAN PHYSICIANS &
SURGEONS; ASSOCIATION OF
CHRISTIAN SCHOOLS
INTERNATIONAL; ASSOCIATION OF
GOSPEL RESCUE MISSIONS; BLACK
WOMEN'S HEALTH IMPERATIVE;
CALIFORNIA WOMEN'S LAW
CENTER, NATIONAL WOMEN'S LAW
CENTER; CALIFORNIA WOMEN'S
LAW CENTER; CATHOLIC MEDICAL
ASSOCIATION; CHRISTIAN LEGAL
SOCIETY; CHRISTIAN MEDICAL
ASSOCIATION; CHRISTIE'S PLACE;
CONCERNED WOMEN FOR
AMERICA; DR. R. ALBERT MOHLER,
JR.; ETHICS & RELIGIOUS LIBERTY
COMMISSION OF THE SOUTHERN
BAPTIST CONVENTION; FEMINIST
MAJORITY FOUNDATION; FORWARD
TOGETHER; HIV LAW PROJECT; IBIS
REPRODUCTIVE HEALTH;
INSTITUTIONAL RELIGIOUS
FREEDOM ALLIANCE AND
CHRISTIAN LEGAL SOCIETY;
INTERNATIONAL MISSION BOARD
OF THE SOUTHERN BAPTIST
CONVENTION; IPAS; LEGAL
MOMENTUM; LIBERTY COUNSEL;
LIBERTY UNIVERSITY; LIBERTY,
LIFE, AND LAW FOUNDATION;
LUTHERAN CHURCH - MISSOURI
SYNOD; MERGER WATCH; NARAL
PRO-CHOICE AMERICA; NARAL PRO-
CHOICE COLORADO; NARAL PRO-

CHOICE WYOMING; NATIONAL
ASIAN PACIFIC AMERICAN
WOMEN'S FORUM; NATIONAL
ASSOCIATION OF CATHOLIC
NURSES; NATIONAL ASSOCIATION
OF EVANGELICALS; NATIONAL
ASSOCIATION OF PRO LIFE NURSES;
NATIONAL CATHOLIC BIOETHICS
CENTER; NATIONAL FAMILY
PLANNING & REPRODUCTIVE
HEALTH ASSOCIATION; NATIONAL
HEALTH LAW PROGRAM; NATIONAL
LATINA INSTITUTE FOR
REPRODUCTIVE HEALTH;
NATIONAL ORGANIZATION FOR
WOMEN (NOW) FOUNDATION;
NATIONAL PARTNERSHIP FOR
WOMEN AND FAMILIES; NATIONAL
WOMEN AND AIDS COLLECTIVE;
NATIONAL WOMEN'S HEALTH
NETWORK; NATIONAL WOMEN'S
LAW CENTER; PLANNED
PARENTHOOD ASSOCIATION OF
UTAH; PLANNED PARENTHOOD OF
KANSAS AND MID-MISSOURI;
PLANNED PARENTHOOD OF THE
HEARTLAND; PLANNED
PARENTHOOD OF THE ROCKY
MOUNTAINS, INC.; POPULATION
CONNECTION; PRISON FELLOWSHIP
MINISTRIES; RAISING WOMEN'S
VOICES FOR THE HEALTH CARE WE
NEED; SERVICE EMPLOYEES
INTERNATIONAL UNION (SEIU);
SEXUALITY INFORMATION AND
EDUCATION COUNCIL OF THE U.S.
(SIECUS); SOUTHERN BAPTIST
THEOLOGICAL SEMINARY; UNITED
STATES CONFERENCE OF CATHOLIC
BISHOPS,

Amici Curiae.

JUDGMENT

Before **MATHESON, McKAY, and BALDOCK**, Circuit Judges.

These cases originated in the District of Colorado and the Western District of Oklahoma and were argued by counsel. The District Court's denial of a preliminary injunction in *Little Sisters*, 6 F. Supp. 3d 1225, is affirmed, and the District Court's grant of a preliminary injunction in *Southern Nazarene*, 2013 WL 6804265, and *Reaching Souls*, 2013 WL 6804259, is reversed. The cases are remanded to the United States District Courts for the District of Colorado and the Western District of Oklahoma for further proceedings in accordance with the opinion of this court.

Entered for the Court

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", followed by a long horizontal flourish.

ELISABETH A. SHUMAKER, Clerk